

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 28.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.22489 of 2002

M.Ramkumar

.. Petitioner

Vs.

1.The Deputy Inspector General,
Central Industrial Security Force,
Southern Zone,
Chennai-600 090.

2.The Commandant,
Central Industrial Security Force,
Chennai Port Trust,
Chennai-600 001.

3.The Deputy Commandant,
Central Industrial Security Force,
Chennai Port Trust,
Chennai-600 001.

4.The Assistant Commandant,
Central Industrial Security Force,
Chennai Port Trust,
Chennai-600 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari as stated therein.

For Petitioner : Mr.M.L.Ganesh

For Respondents : Mr.Titus Jesudoss, ACGSC.,

ORDER

(Order of the Court was delivered by P.SATHASIVAM, J.)

The petitioner has filed the above writ petition for issuance of writ of Certiorari to call for the records of the orders vide No.V-15014/CISF/Ch.P.T/DC/99-14997 dated 22.12.99 passed by the third respondent, appellate order vide No.V-15014/Estt-I/RMK/2000/4553 dated 10.05.2000 passed by the second respondent and revisional order vide No.V-11015/33/2K/L&R(SZ)/8280 dated 18.12.2000 passed by the first respondent and quash the same.

2. According to the petitioner, he has joined as Assistant Sub Inspector/Clk-Typist with the Central Industrial Security Force (hereinafter referred to as "the CISF") in the year 1986 and served at various places. Eversince from the date of joining the service in the year 1986 to till the date of punishment imposed on him by the respondents, he has worked with unblemished service and maintained good track record without any memo or charge. In the year 1998, while he was working in Chennai Port Trust as I/C Estt. III Section, he was entrusted with maintaining 807 personnel service documents and apart from that he was also assigned with the following works:

- (1) Correspondence on Grant of Increment.
- (2) Correspondence on Special Increment.
- (3) Correspondence on issue of Railway warrant
- (4) Correspondence on Leave Travel Concession.
- (5) Correspondence on EL account of all personnel.
- (6) Correspondence on sick regularisation of all personnel.
- (7) CGEGIS correspondence.
- (8) ACR correspondence upto the rank of Head Constable.
- (9) Correspondence on character and antecedent-verification in respect of fresh appointment.
- (10) OSL/AWI correspondence.
- (11) Correspondence on CL account of Bn. Office personnel and GO's.

3. In order to assist him, though six ASI/Clks should have been appointed, but one ASI/Clk was appointed to assist him in his unit for performing all the duties. Even the said ASI/Clk posted to assist him, was a lady, who could not put up hard work beyond office hours. During that period, one HC/GD N.Yadav has applied for the Railway Warrant for the year 1999. The petitioner asked the constable P.K.Sreekumar to inform whether the said HC/GD is eligible for railway warrant or not since he was held up with the other urgent work. Based on the information furnished by his assistant, the said N.Yadav was granted railway

warrant for the year 1999. Only during the first week of August, 1999, he noticed that the railway warrant for the year 1999 was issued erroneously to the said N.Yadav for the second time as he was already availed the warrant earlier. Though he was not the concerned authority to issue the said warrant, but only recommended to his superior authority. Being so, the charge memorandum dated 18.8.1999 was issued by the third respondent. Besides the aforesaid charge, the third respondent has also charged him for other reasons mentioned in Article II of the charge memorandum, which were happened mainly due to various reasons and he was not directly responsible. The fourth respondent, who is the subordinate to him has conducted an enquiry and passed an order on 23.09.1999 holding that the petitioner should pay the fine equivalent to seven days pay. Having aggrieved by the order dated 23.09.1999, he has preferred an appeal on 26.10.1999 to the second respondent to set aside the punishment imposed on him. But the second respondent directed the third respondent to issue a fresh final order for the charge sheet memorandum dated 18.08.1999 without directing the third respondent to conduct fresh enquiry into the matter. Pursuant to the same, the third respondent, without conducting proper and fresh enquiry, by an order dated 22.12.1999, confirmed the original order passed by the fourth respondent, but reduced the punishment by directing the petitioner to pay the fine equivalent to three days. Against the said order, the petitioner preferred a revision to the first respondent and without answering to the grounds raised, the first respondent-revisional authority merely confirmed the order. In such circumstances, according to the petitioner, having no other remedy, he has filed the present writ petition before this Court.

4. Heard the learned counsel for the petitioner as well as the learned Additional Central Government Standing Counsel for the respondents.

5. The learned counsel appearing for the petitioner, after taking us through the relevant materials, explanation, orders passed by all the three authorities, has submitted that in view of the details furnished in the explanation and the defects expressed, the authorities ought to have accepted and dropped the charges levelled against him. On the other hand, the learned Additional Central Government Standing counsel appearing for the respondents submitted that inasmuch as proper enquiry was conducted and all the relevant materials were considered by the authorities, there is no valid ground for interference.

6. We have carefully perused the materials and considered the rival contentions.

7. In order to understand the rival contentions, it is useful to refer the memorandum of charges, which reads as under:

Article-I

"No.863250013 SI/Min M.Ramkumar of CISF Unit, Ch.P.T, Chennai, while performing duties at Estt.III Section as section incharge issued free Railway Warrant from Chennai Central to Gaya and back for the year 19999 to No.734480325 HC/GD N.Yadav vide Rly. Warrant bearing No.C-181737 & 38 on 5.6.99. The said HC/GD has already availed two year block LTC for the year 1998-99 while he was serving at CISF Unit, RSTPS Ramagundam vide USO Part-II No.102/98 dated 23/24-7.1998 and an entry to this effect was also available in the service book and he suppressed the fact. Suppression of fact to inform his superiors amounts to gross misconduct and indiscipline on the part of No.864350013 SI/Min M.Ramkumar. Hence the charge.

Article-II

No.863250013 SI/Min M.Ramkumar of CISF Unit, Ch.P.T. Chennai while performing duties at Estt.III Section as section incharge failed to supervise the subordinates working under his control and due to his poor supervision, the following shortcoming were noticed in Estt.III Section."

8. On receipt of the above mentioned memorandum, the petitioner has submitted a detailed explanation on 25.08.1999 and the same is available at pages 3 to 5 of the typed set of papers filed before this Court. The main grievance of the petitioner is that inspite of highlighting the handicaps expressed by the petitioner in handling several service matters and insufficient assistance, the same were not duly and properly considered by the disciplinary authority. In the explanation, the petitioner has stated that he was incharge of Establishment III Section from 25.08.1998. According to him, in order to maintain the service documents of 807 personnel, he has been provided with the assistance of one lady ASI/Clk and only one constable. In addition to the maintenance of service documents, he was also assigned with the other works as stated above.

9. It is also highlighted that as per the volume of work, he is eligible to have six ASI/Clks for the maintenance of 807 service documents. However, the fact remains that he was given only one ASI/Clk and she is a lady and according to him, even the lady Assistant cannot be used beyond the office hours. Often he took the assistance of contable P.K.Sreekumar to check and inform whether the particulars furnished in the Railway Warrant are acceptable. On perusal of the explanation clearly show that the petitioner was over burdened at the relevant point of time in the establishment section. It is also his claim that for want of assistance by way of man power, he was forced to believe the wrong information furnished by his assistant, who is working in the document section, prior to his posting in establishment Section. He has also expressed that he is not very familiar in dealing with the subject especially (document section) and because of the same, it is but normal to commit such mistakes. He has also pleaded that what had happened is an unintentional one and mainly it was happened due to over burden.

10. We have considered the grievance expressed by the petitioner. We have also perused the reasoning of the disciplinary authority. Though all those details are available before the disciplinary authority at the time of passing an order, as rightly pointed out by the learned counsel for the petitioner, the volume of work and the person posted to assist him were not taken note of by the disciplinary authority. Though the appellate authority has reduced the quantum of punishment to some extent, on going through the details stated in the explanation dated 25.08.1999, we are of the view that there is no reason to disbelieve his claim. We are also of the view that the volume of work, proper assistance etc., could have been ascertained from verification of the records by the disciplinary authority. If the grievance expressed in the explanation are acceptable, it is but proper on the part of the authority to consider the same, even otherwise, we are of the view that a mere warning would be sufficient. We are satisfied that in the light of the explanation offered, the punishment of fine inflicted on the petitioner is not warranted and cannot be sustained. Though we are conscious of the fact that this Court cannot alter the punishment as if we are exercising jurisdiction as an appellate authority, in the light of the explanation offered by the petitioner, which we have already gone through, we are satisfied that the punishment imposed on him by the disciplinary authority and modified by the appellate authority is not warranted and we are satisfied that ends of justice would be met by mere warning. The order of both the authorities are liable to be interfered with. As discussed earlier, we modified the order of punishment imposed on the petitioner into warning and to this extent we allow the writ petition. No costs.

11. It is represented that pursuant to the impugned order, the three days pay were recovered from the petitioner. In view of our conclusion, the respondents are directed to return the amount forthwith.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

- 1.The Deputy Inspector General,
Central Industrial Security Force,
Southern Zone,
Chennai-600 090.
- 2.The Commandant,
Central Industrial Security Force,
Chennai Port Trust,
Chennai-600 001.
- 3.The Deputy Commandant,
Central Industrial Security Force,
Chennai Port Trust,
Chennai-600 001.
- 4.The Assistant Commandant,
Central Industrial Security Force,
Chennai Port Trust,
Chennai-600 001.

+ 1 cc to Mr. M.L. Ganesh, Advocate SR No. 46119

HPR(CO)
SR/12.10.2006

W.P.No.22489 of 2002